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SUB-COMMISSION CONTINUES DISCUSSION OF GROSS VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

GENEVA, 22 August (UN Information Service) -- The Sub-Commission on the Elimination of Discrimiation and Protection of Minorities continued this morning its discussion of its agenda item on the violation of human rights and fundamental freedoms including policies of racial discrimination, segregation and apartheid, with particular reference to colonial and other dependent countries and Territories.

Experts from the United States, Costa Rica, Norway, Greece, Pakistan, India, Egypt, Peru and the Soviet Union made statements.

Other speakers were the representatives of the International League for the Rights and Liberation of Peoples, the Procedural Aspects of International Law Institute/International Human Rights Law Group, the International Federation of Women of Legal Careers, the Minorities Rights Group, the International League of Human Rights and the Romani Union. Observers from the Republic of Korea, Sri Lanka and Argentina also spoke on the subject.

At the beginning of the meeting the expert from the United Kingdom expressed his shock and regret at the death of Benigno S. Aquino Jr., whom he described as a champion of human rights in the Philippines. He conveyed his deep sympathy to Mr. Aquino's family.

Statements Made

JOHN CAREY, expert from the United States, stated that, among the "sordid" reports from places like Sri Lanka, Suriname and Afghanistan, there were a few bright spots. The assistance rendered by the United Nations to the cause of human rights in Uganda revealed the evolving capacity of the Organization to aid well-intentioned Governments in that area. The Sub-Commission's mission to Mauritania was equally promising. He was also pleased at the release in the Republic of Korea of Kim Dae-Jung, for whom appeals had been made in the Sub-Commission.

He wanted to know about alleged violations in the Soviet Union now that Jewish emigration was at a level about 2 per cent of what it was in 1979, when

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it had been over 50,000 a year. He had heard there were thousands of "refuseniks" still wanting to leave. Was there any connection between those developments and the creation last spring of the Anti-Zionist Committee?

Citing the phenomenon of disappearances, he said that practice was rife in about 23 countries. The loathsome technique of unacknowledged detention should be declared at the highest levels of the United Nations as an inadmissible conduct on the part of Member States, whether the victims be dead or alive. Practitioners of that evil should be subject to prosecution by any State, just like pirates or those guilty of grave breaches of the Geneva Conventions. No Government should have the authority to pardon such contemptible behaviour and bar another State from bringing the culprits to trial.

ELIZABETH ODIO BENITO, expert from Costa Rica, said the systematic and massive violation of human rights and fundamental freedoms had been seriously denounced by members of the Sub-Commission and non-governmental organizations. She expressed solidarity with the Commission on Human Rights resolution characterizing the massacres of Sabra and Shatila as genocide. She condemned Israel for its violation of the human rights of the population of the occupied Arab territories.

Speaking of Latin America, she thought the human rights situations in Argentina, Chile and Uruguay were different. In Chile, the human rights situation had not improved. Arbitrary detentions, repression and suppression of political parties and activities continued. Recently, there had been notable changes in Argentina and Uruguay. There was positive indication that the process of democratization was on its way. Elections were to be held in near future and political parties were carrying out intensive activities for their preparation. She hoped, however, that persons responsible for disappearances in Argentina would be brought to justice.

Turning to Central America, she said the situation in Guatemala, El Salvador and Honduras presented cases of systematic violations of human rights which required the attention of the Sub-Commission. She cited, as examples, cases of kidnappings, secret trials, torture, disappearances and arbitrary detentions. She was alarmed by the refugee situation in Honduras. She thought the Sub-Commission should consider the creation of an international tribunal which would condemn and judge persons responsible for such crimes.

ASBJORN EIDE, expert from Norway, said the task of the Sub-Commission was to assess the way in which Governments lived up to their obligation in the respect for and protection of human rights. The world military confrontations gave cause for foreign intervention by armed forces which negatively affected self-determination and democracy. In many countries, there were also irresponsible individuals and groups who made it difficult to fulfil human rights. He cited as an example terrorist movements.

Foreign occupation such as that in Palestinian territories, Lebanon and Namibia violated those peoples' right to self-determination, he said. So did the presence of foreign armed forces in domestic conflicts in Kampuchea and Afghanistan. South Africa was the main violator of the principle of popular

sovereignty. He recognized that progress had been achieved in Latin America which had given for a long time great concern to the world community.

Racial and ethnic discrimination remained a serious problem in many parts of the world and in South Africa in particular, he said. Apartheid was the most repugnant system of discrimination which permeated all aspects of South African society. Discrimination, however, also occurred in other situations. He suggested that the Sub-Commission devote attention to the "trapped minorities", such as groups who had come to the industrialized countries during the period of economic boom and were now facing an uncertain future.

He said the international community had been greatly disturbed by the violence in Sri Lanka. In that regard, he recommended the establishment of an independent commission of inquiry and asked that the Sri Lankan Government take steps to prevent such occurrences in the future. On the rights of disabled persons, he said violation or non-fulfilment of their rights consisted of neglect or a reduction in assistance to that particular group. He hoped Governments would provide comprehensive information on the subject to enable the Sub-Commission to examine more closely developments in that field.

In the minority rights area, he cited the Working Group on Indigenous Populations as an important initiative on the part of the Sub-Commission. However, there remained serious problems in some countries, in particular Guatemala, Albania and Iran. As regards the right to life and to physical integrity, he deplored the severe violence in Kampuchea and Afghanistan. He expressed regret that the United Nations did not carry out an investigation of the genocide-type practices that took place in Kampuchea during the years 1975-1978. He was also concerned that the presence of foreign forces in Afghanistan adversely affected the country's human rights situation.

ERICA-IRENE DAES, expert from Greece, said the Sub-Commission should continue to review the human rights situation throughout the world in order to seek out the root causes of gross violations of human rights and propose effective methods to remove them. In addition to the repugnant situation of apartheid, flagrant violations of human rights had taken the form of arbitrary arrests, imprisonment, torture, summary executions and mass exoduses. Refugees had been expelled from countries of asylum in disregard of the principle of non-refoulement.

She said the drama of the missing and disappeared persons and their families constituted a stigma on contemporary society. That phenomenon should be studied by the International Law Commission with a view to making it a crime against humanity. She deplored the prison conditions in some countries and the treatment of detainees and political prisoners. She was disturbed by reports of grave violations of human rights of the Greek minority in Albania.

The Palestinian people continued to face the denial of their right to self-determination, she said. They were also victims of aggression and military occupation by a foreign Power. She hoped the International Conference on the Question of Palestine opening in Geneva next week would lead to specific action beneficial to the Palestinian cause.

She said the Philippine Government considered all dissenters as enemies of the country, and cited the assassination of opposition leader Mr. Aquino.

RAFAT MAHDI, expert from Pakistan, said violations of human rights continued to be a matter of very grave concern to the international community. The Sub-Commission had the duty of providing expert input in the human rights field and to focus attention on situations revealing a consistent pattern of violations.

He mentioned the situation in South Africa where the racist regime was violating with impunity basic standards of decency, morality and civilized conduct. There were vestiges of colonialism which challenged all norms of equity and humanity, he said. The illegal occupation in Namibia was an affront to human morality and values. The continuing intransigence of the Pretoria regime deserved the need for an intensified struggle supported by concrete action against white supremacy in South Africa.

Another flagrant violation of human rights persisted in the occupied Arab territories. The systematic and constant violations of human rights had resulted in the continued deterioration of the situation in the area. Social and cultural conditions of the Arab residents in the occupied territories had also been deteriorating. There was a shortage of basic necessities, inadequate housing facilities, continued expropriation of land and restriction in the use of water for agricultural purposes. Farmers were also harassed by Israeli settlers. The international community must go beyond the stage of double condemnation with a view to redressing the unfortunate consequences of the historic injustices committed against the Palestinian people.

Speaking of the situation in Sri Lanka, he said that country was faced with a crisis. The situation called for prudent analysis. Care and circumspection should be given to that complex problem. The Sub-Commission should appreciate the forthright manner in which the Sri Lankan Government had volunteered to inform the international community of the events in the country.

SYED MASUD, expert from India, supported the suggestion that the Sub-Commission not act hastily with regard to the situation in Sri Lanka. As to the case of Professor Jose Luis Massera, who had been imprisoned in Uruguay since 1975, he said his "crime" was that he had been a parliamentarian. The Human Rights Committee had found his imprisonment unjustified. He recommended that the Sub-Commission, through the General Assembly, issue an appeal to the Government of Uruguay for the release of Professor Massera.

AHMED KHALIFA, expert from Egypt, was critical of the way in which the Sub-Commission discussed the item under consideration. He said new directives should be contemplated. His colleagues had tried to transcend the ritual of pointing at countries, but the discussion in the Sub-Commission under that item had indeed encompassed many countries.

The resolutions of the Sub-Commission had "heavy" political overtones which cast shadows of doubt over the efficiency of the role of the Sub-Commission as an independent expert group, he said. He felt that on balance there had been an escalation of politicization, which did not lend

greater impetus to the issue of human rights itself. He thought the Sub-Commission should switch the focus of its work in that area in order to avoid duplication of work between the Sub-Commission and other human rights bodies.

The present exercise, however, should not look at human rights in an abstract fashion, since they were after all a part of politics and could not be dissociated from it. He wondered whether the Sub-Commission could not try to depoliticize the issue in moving away from the policies of the countries of origin of the experts. A restructuring of the Sub-Commission would help it differentiate itself from other political bodies. The Sub-Commission should attain a certain autonomy which would guarantee a certain degree of independence.

RAUL FERRERO, expert from Peru, said the examination of that topic should be devoted to violations of human rights throughout the world. He regretted the tendency to treat Latin America as a continent with the gravest human rights problems. He denounced violations in Chile where peaceful demonstrators had been victims of killings. There was little improvement in the situation of human rights in Guatemala and El Salvador. He felt there was a danger of internationalizing the conflicts in El Salvador and Suriname.

He agreed that progress had been achieved in Argentina and Bolivia, which were soon to hold elections. He hoped Argentina would also be able to exercise its territorial sovereignty over the Malvinas Islands. As to Cuba, he said progress had been achieved in the areas of health and education. The general knowledge of the population remained still low. In short, Cuba was the only Latin American country which had achieved progress on all fronts except in the area of the freedom of the press.

VSEVOLOD SOFINSKY, expert from Soviet Union, said the Sub-Commission had had a fruitful and abundant exchange of view on that topic. During that exchange, he had learned, for example, that the Soviet Government prevented its people from fighting for peace. The Western countries of Europe had subtle ways of violating the human rights of their population, he said, citing the arrests of peace demonstrators in Newburry, England.

In condemning violation of human rights, the Sub-Commission should also take into account violation of economic, social and cultural rights, he said. The relevant convention provided the right to work and guaranteed its enjoyment. It seemed to him that the Sub-Commission was getting used to the millions of unemployed in particular in one Western State. No mention had been made of the problems encountered by the unemployed in this part of the world, where women were also denied equal rights. That type of violation should also be eliminated.

MICHEL ROBERT, representative of the International League for the Rights and Liberation of Peoples, said the Indonesian Government had voluntarily remained silent on the question of East Timor. Documents recently received by his organization had revealed that the people were mostly living in strategic

villages. That policy had destroyed the traditional economy and was behind the famines periodically suffered by the island. The village population was also controlled by the Indonesian army.

Insecurity in East Timor was a permanent fact of life and arrests were numerous, he said. Instructions had been given by the Government to separate the families of members of the Revolutionary Front for the Independence of East Timor (FRETILIN). The Indonesian forces had also executed members of FRETILIN who surrendered under promise of an amnesty. His organization was concerned that the armed forces in future actions would make use of all means at its disposal to wipe out members of FRETILIN.

AMY YOUNG, representative of Procedural Aspects of International Law Institute/International Human Rights Law Group, said that over the past year there had been in Sri Lanka a notable decline in the respect of the rule of law. She cited the enactment of the Terrorism Act into a permanent law; a referendum held under emergency regulation which had extended the life of parliament for another six years; promotion of several police officials who were judged to have abused their office; and evidence of security forces involvement in the recent conflagration. Other measures which caused concern for the protection of human rights were the banning of certain political parties, press censorship and the expulsion of the representatives of the International Committee of the Red Cross (ICRC).

She hoped the Government of Sri Lanka would make a comprehensive and objective investigation of the killings once peace had been restored. She also urged the Government to re-examine the effects of the provisions of the Terrorism Act and seek measures to control dangerous terrorist activities. She urged the Sub-Commission to recommend to the Commission on Human Rights that a special rapporteur be appointed to provide relevant information on the human rights situation in Sri Lanka.

MYRIAM SCHREIBER, representative of the International Federation of Women of Legal Careers, referring to the right of everyone to leave any country and to return to it, said that right was being denied to the inhabitants of the Sakhalin Islands -- now a Russian territory. During the Second World War Koreans had been brought to the islands by the Japanese. After the war they had found themselves without nationality and rights. A small number had acquired Soviet nationality.

About 3,500 of the islands' inhabitants had expressed the wish to return either to Japan or the Republic of Korea, she said. Requests to that effect had not been granted. Several non-governmental organizations were looking into the case so that those persons could recover Japanese nationality which they had lost arbitrarily.

LEO KUPER, representative of the Minorities Rights Group, speaking of the Convention for the Prevention and Punishment of the Crime of Genocide, said it had two insignificant references to prevention. The reason behind that was that punishment of the crime would act as an effective deterrent. He had doubt that that valid assumption in the domestic arena had equal validity in the international context. The prevention of the crime was much more

important than its punishment after the event. He regretted that the prevention factor was not a central concern in the Sub-Commission initial report on genocide.

The report before the Sub-Commission on that question dealt mainly with education, he said. He did not see what contribution education could make to the prevention of genocide against indigenous groups who were being annihilated in the interests of economic development. There was a need to differentiate between types of genocide which affected different groups under a great variety of circumstances. He thought the availability of United Nations advisory services could be a contributiing factor to the prevention of genocide arising out of conflicts for self-determination.

SANJI HARAGO, representative of the International League of Human Rights, said the right of everyone to leave any country, including his own, and to return to it, was a human right of last resort. In monitoring the current status of freedom of movement, he said numerous Governments in all regions of the world were suppressing their citizens' right to leave and return. His organization supported the recommendation of the Special Rapporteur for promoting and encouraging respect for observance of that right.

He drew the attention of the Sub-Commission to the ethnic Koreans residing in Sakhalin. Today, 30 years after the war, he said, they still could not return to the Republic of Korea or Japan. He requested that the Sub-Commission look into the matter. Those citizens had a right to Japanese nationality; they also had the right to be repatriated to Japan. The Government of Japan should issue them passports and request the Soviet Government to authorize their repatriation to Japan.

Mr. CIBULA, representative of Romani Union, said Romas people were discriminated against in most countries of the world. The aims of his organization were to protect the Romas from genocide and to fight against all forms of discrimination as well as to combat social injustices. It also requested that the Romas be recognized by all social and public organizations of the countries in which they lived. It further requested the suppression of adverse laws, the abolition of brutal police measures as well as the abolition of abusive epithets. The "Gipsy nation" had positively influenced all peoples by its rich history and culture. He requested the assistance of the Sub-Commission to prevent the genocide of his people.

SANGYONG PARK, observer from the Republic of Korea, said the Government and people of his country continued to make remarkable progress in the field of human rights. He cited as an example the release of Kim Dae-Jung from prison in December 1982. He also cited the special amnesty announced by the Korean Government a week ago on the occasion of the thirty-eighth anniversary of independence. The special amnesty had brought benefits to about 2,000 persons in the form of release from prison, commutation of sentences, suspension of the execution of sentences, parole and reinstatement of civil rights.

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The legal system of the Republic of Korea strictly prohibited torture, he said. Confessions extracted under torture or duress were not admissible as evidence in court. Public officials found of having mistreated suspects or inmates were now subject to criminal prosecution. The prison law included provisions for visitation and communication, sanitation and medical treatment, education and work. Pointing out that the Republic of Korea was not a Member of the United Nations, he said its Government had continued to fully co-operate with the Commission on Human Rights as well as the Sub-Commission.

A.T. JAYAKODDY, observer from Sri Lanka, said the events in Sri Lanka last July had had their starting point in the emergence and intensification of the Tamil Separatist Movement in the northern province. Tamil Eelam terrorists had killed Tamils who had advocated non-violent, democratic means to settle outstanding issues with the Government of Sri Lanka. He regretted that no mention had been made of the long and blood-spattered history of the Eelam terrorism.

It was in the context of a wild terror campaign in the north that the Prevention of Terrorism Act had been introduced in 1979 to protect the integrity of State sovereignty, he said. On 23 July, the Eelam ambush of 13 soldiers had sparked a massive wave of communal unrest in Colombo and other parts of the country. The incidents were neither prompted nor orchestrated by the Government or its agents. He said his Government would leave no stone unturned to identify and bring before the courts all persons responsible for the killings, violence, destruction and devastation. He denied that the ambush by the terrorists was in retaliation for the kidnapping of three Tamil girls. The two versions of that incident were equally false. The allegation that the armed forces had killed the Tamil population in large numbers was also false. The main law-and-order forces of the Government had been fully active in restoring order and normalcy.

ALBERTO DAVEREDE, observer from Argentina, said he was surprised at references characterizing the return to political process in Argentina as a popular movement resisted by the Government. He pointed out that the return to democracy had been instituted by the Government as soon as the social peace had been re-established. The Government had adopted legislative and administrative measures to make the transfer possible. Elections were to be held on 30 October this year. Most political parties had already had their own internal elections with the participation and general enthusiasm of the population.

Regarding the phenomenon of disappearances in Argentina, he said his Government was constantly informing the competent international organizations of the situation. It had collaborated with the Working Group created by the Commission on Human Rights. He reiterated that the question of responsibility for that phenomenon was outside the Working Group's mandate and of the Sub-Commission. Concluding, he hoped Argentina would be able to exercise its right to territorial integrity over the Malvinas Islands in the very near future.

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